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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/579,268

05/12/2006

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09/26/2008

EXAMINER

HELLING, KAITLYN ELIZABETH

ART UNIT

PAPER NUMBER

4166

MAIL DATE

DELIVERY MODE

09/26/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/579,268	<b>Applicant(s)</b> KIM, JIN-IL	
	<b>Examiner</b> KAITLYN E. HELLING	<b>Art Unit</b> 4166	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 January 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1-5 is/are allowed.
- 6) ☒ Claim(s) 6 and 7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01/03/2007</u> .                                              | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 4,934,382 to Barone, Jr. (Barone).

Barone teaches a protective sheath or condom (Title and Col. 1, lines 5-14) for aseptic purposes (Col. 1, lines 14-25) with the condom being made of latex material (Col. 3, lines 10-16) and applied on a surface thereof with a lubricant (Col. 1, lines 29-36).

***Allowable Subject Matter***

3. Claims 1-5 are allowed.

The following is the examiner's statement of reasons for allowance:

The prior art of record does not teach or suggest a reason to combine, the use of near-infrared light therapy and vibration/massage within a probe structure including a cylindrical member having an inclination of the upper part of the housing and a removable base support member which is positioned near the prostate through insertion into the anal cavity. The relevant prior art teaches that most prostate treatments are done using thermal therapy via the urethra with the possible addition of a sensor probe

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positioned in the anal cavity. By way of example, U.S. 4,404,881 to Cathaud et al. teaches the use of a transrectal probe capable of receiving a detection instrument for monitoring the treatment of the prostate which is done using hyperthermia, and U.S. 5,234,004 to Hascoet et al. teaches a thermal urethral emitting probe and a rectal probe for controlling the positioning of the urethral probe. Therefore, the use of infrared light and vibration/massage with the structure of the probe device for positioning it in the anal cavity is considered novel and unobvious over the prior art of record.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. 4,002,164 to Bradley and U.S. 2,342,557 to Ross et al. disclose prostate massagers. U.S. 5,454,794 to Narciso et al., U.S. 4,804,240 to Mori, U.S. 2002/0187533 A1 to Mross et al., U.S. 6,290,712 B1 to Nordquist et al., U.S. 1,381,194 to Homan, and U.S. 6,409,744 B1 to Marchesi discloses the application of phototherapy to the body both internally and externally.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAITLYN E. HELLING whose telephone number is (571)270-5845. The examiner can normally be reached on Monday - Friday 7:30 a.m. to 5:00 p.m. EDT.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached at (571)272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Henry M. Johnson, III/  
Primary Examiner, Art Unit 3739

KH